

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



**TRANSCRIPT OF RECORD.**

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**Court of Appeals, District of Columbia**

**APRIL  
JANUARY TERM, 1901.**

No. 1047:

**62**

**No. 10, SPECIAL CALENDAR.**

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**JULIUS LATNEY, APPELLANT**

**vs.**

**THE UNITED STATES.**

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**APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA**

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**FILED JANUARY 24, 1901.**

# COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

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# In the Court of Appeals of the District of Columbia.

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JULIUS LATNEY, Appellant, }  
vs. } No. 1047.  
THE UNITED STATES. }

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a Supreme Court of the District of Columbia.

UNITED STATES }  
vs. } No. 22697. Criminal.  
JULIUS LATNEY. }

UNITED STATES OF AMERICA, } ss :  
District of Columbia, }

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Indictment.*

Filed in open court November 28, 1900.

In the Supreme Court of the District of Columbia, Holding a Criminal Term, October Term, A. D. 1900.

DISTRICT OF COLUMBIA, ss :

The grand jurors of the United States of America in and for the District of Columbia aforesaid upon their oath do present that one Julius Latney, late of the District aforesaid, on the sixteenth day of July, in the year of our Lord one thousand eight hundred and ninety-eight, was tried in the police court of the District of Columbia on a charge of the larceny of property under the value of thirty-five dollars in the District of Columbia, the said court then and there having jurisdiction over said offence, and was by said court found guilty of said charge and sentenced to pay a fine of five dollars and in default to be imprisoned fifteen days in jail; which said judgment has not been reversed and still remains in full force and effect.

And the grand jurors aforesaid upon their oath aforesaid do further present that the said Julius Latney, with force and arms, on the tenth day of October, in the year of our Lord one thousand nine hundred, and at the District aforesaid, one pocketbook, of the value of twenty-five cents, of the goods, chattels, and property of one John H Lucas, then and there being and in his possession found, feloniously

did steal, take, and carry away, against the form of the statute in such case made and provided and against the peace and Government of the said United States.

Second count. And the grand jurors aforesaid upon their oath aforesaid do further present—

2 That the said Julius Latney, on the tenth day of October, in the year of our Lord one thousand nine hundred, with force and arms, at the District aforesaid, one promissory note for the payment to the order of said John H. Lucas, by the name of J. H. Lucas, of the sum of five dollars and fifty cents, and of the value of five dollars and fifty cents, and of the tenor following—that is to say:

“\$5.50.

SEPT. 5, 1899.

Sixty days after date I promise to pay to the order of J. H. Lucas five, \$5.50,  $\frac{5}{100}$  dollars, at Mr. Smith Barber's, No. 302 12 St. N. W., value received.

No. —. Due —.

C. A. BERKELEY,  
No. 616 D St. N. W.”

And one other promissory note for the payment to the order of said John H. Lucas, by the name of J. H. Lucas, of the sum of thirty dollars, and of the value of thirty dollars, and of the tenor following—that is to say:

“\$30.00.

WASHINGTON, D. C., Sept. 6, 1899.

Ninety days after date we promise to pay to the order of J. H. Lucas thirty  $\frac{10}{100}$  dollars, at No. 302 12 St. N. W., value received, with interest at the rate of 6 per cent. per annum.

No. —. Due —.

W. H. JACKSON.  
C. A. BERKELEY.

J. H. LUCAS.  
C. L. SMITH.”

3 both of the said promissory notes being valid, subsisting obligations on the said tenth day of October, in the year of our Lord one thousand nine hundred, of the goods, chattels, and property of the said John H. Lucas, then and there being and in his possession found, feloniously did steal, take, and carry away, against the form of the statute in such case made and provided and against the peace and Government of the said United States.

THOMAS H. ANDERSON,  
*Attorney of the United States in and for the  
District of Columbia.*

(Endorsed :) No. 22697. United States vs. Julius Latney. Larceny and second offense petit larceny. Witnesses: John H. Lucas, William W. Wheeler, M. P.; Joseph F. Waldron, M. P.; Robert L. Carroll, M. P. A true bill. William B. Hoover, foreman.

## 4 Supreme Court of the District of Columbia.

FRIDAY, *November* 30, 1900.

The court resumes its session pursuant to adjournment, Mr. Justice Clabaugh presiding.

\* \* \* \* \*

UNITED STATES	}	No. 22697.	Indicted for Larceny and Second Offense Petit Larceny.
<i>vs.</i>			
JULIUS LATNEY.			

Come as well the attorney of the United States as the defendant in proper person, in custody of the warden of the jail of the District of Columbia; and thereupon the defendant being arraigned upon the indictment, he pleads thereto not guilty and for trial puts himself upon the country; and the attorney of the United States doth the like.

*Memoranda.*

December 3, 1900.—Jury sworn. Verdict: Guilty on first count (second offense petit larceny), but not guilty on second count (grand larceny).

December 4, 1900.—Motion in arrest of judgment filed; motion for new trial filed.

## 5 Supreme Court of the District of Columbia.

FRIDAY, *December* 21, 1900.

The court resumes its session pursuant to recess, Mr. Justice Clabaugh presiding.

\* \* \* \* \*

UNITED STATES	}	No. 22697.	Convicted of Second Offense, Petit Larceny.
<i>vs.</i>			
JULIUS LATNEY.			

Come as well the attorney of the United States as the defendant in proper person, in custody of the warden of the jail of the District of Columbia, and by his attorney, Levi H. David, Esq. Whereupon the defendant's motions in arrest of judgment and for a new trial coming on to be heard, after argument, it is considered by the court that said motions be, and they are hereby, overruled. Whereupon it is demanded of the defendant what further he has to say why the sentence of the law should not be pronounced against him, and he says nothing except as he has already said. Whereupon it is considered by the court that for his said offense the defendant be taken by the warden aforesaid to the common jail, from whence he came, thence to the West Virginia penitentiary, at Moundsville, W. Va., there to be imprisoned and kept at labor for the period of two (2) years and six (6) months, to take effect from the date of arrival at said penitentiary; and thereupon the defendant, by his attorney, notes an appeal to the Court of Appeals of the District of Columbia.

from the judgment of this court in this cause, which is granted. Whereupon the attorney for the defendant moves the court to fix the amount of the bond in this cause on said appeal; which motion is granted, and said bond is fixed in the sum of one hundred dollars (\$100).

6

Filed Dec. 26, 1900. J. R. Young.

In the Supreme Court of the District of Columbia.

UNITED STATES	}	Criminal. No. 22697.
vs.		
JULIUS LATNEY.		

The President of the United States to Thomas H. Anderson, attorney of the United States in and for the District of Columbia, Greeting:

You are hereby cited and admonished to be and appear at a Court of Appeals of the District of Columbia, upon the docketing the cause therein under and as directed by the rules of said court, pursuant to an appeal noted in open court in the supreme court of the District of Columbia on the 21st day of December, 1900, wherein Julius Latney is appellant and the U. S. is appellee, to show cause, if any there be, why the judgment rendered against the said appellant should not be corrected and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the District of Columbia.	Witness the Honorable Edward F. Bingham, chief justice of the supreme court of the District of Columbia, this 26th day of December, in the year of our Lord one thousand nine hundred. <i>and</i>
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JOHN R. YOUNG, *Clerk*.

Service of the above citation accepted this 21st day of December, 1900.

T. H. ANDERSON,  
*Attorney for Appellee.*

7

Supreme Court of the District of Columbia, January 17, 1901.

Mr. Justice Clabaugh presiding.

UNITED STATES	}	No. 22697. . . Convicted of Second Offense, Petit Larceny.
vs.		
JULIUS LATNEY.		

Now comes here the defendant, by his attorney, Levi H. David, Esq., and presents to the court his bill of exceptions to the rulings of the court taken at the trial of this cause, and prays that the same may be signed, sealed, and made a part of the record, which is done accordingly, *nunc pro tunc*. It is ordered that the defendant be not



required to furnish a bond on his appeal, and that the clerk of this court prepare a transcript of the record without cost to said defendant.

8

*Bill of Exceptions.*

Filed in open court Jan. 17, 1901.

In the Supreme Court of the District of Columbia, Holding a Criminal Term.

UNITED STATES	}	No. 22697.
vs.		
JULIUS LATNEY.		

Be it remembered that at the trial of this case before the Hon. Harry M. Clabaugh, one of the justices of the supreme court of the District of Columbia, and a jury empaneled and sworn to try the issues raised between the United States and the defendant, the said United States, to maintain the guilt of the defendant of the crime alleged in the indictment, produced as a witness JOSEPH HARPER, who testified in substance that he was a deputy to the clerk of the police court of the District of Columbia; that he was familiar with the records and papers on file in the clerk's office of said police court.

Thereupon, in order to prove that the defendant had been properly and legally convicted in the police court of the District of Columbia of the first offense of petit larceny on the 16th day of July, 1898, as alleged in the indictment, the Government produced the following written instrument and offered the same in evidence:

In the Police Court of the District of Columbia, July Term, A. D. 1898.

DISTRICT OF COLUMBIA, *To wit*:

Henry E. Davis, Esquire, attorney of the United States in and for the District of Columbia, who for the said United States in this behalf, by Daniel W. Baker, Esq., — of his assistants, comes here into court, at the District aforesaid, on the 16th day of July, in the year of our Lord one thousand eight hundred and ninety-eight, in this said

9 term, and for the said United States gives the court to understand and be informed, on the oath of one Mandel Slimes, made on the 16th day of July, in the year last aforesaid, at the District aforesaid, before the said Daniel W. Baker, Esquire, one of the assistants to the said attorney of the United States, as aforesaid, that one Samuel Turner, Julien Latney, and Edward Beckett, all late of the District aforesaid, on the 12th day of July, in the year of our Lord one thousand eight hundred and ninety-eight, with force and arms, at the District and within the jurisdiction of this court—

24 pairs — stockings, each pair of the value of ten cents;

12 other pairs of stockings, each pair of the value of five cts.,

all lawful money of the said United States, of the goods and chattels

of Mandel Slimes then and there being, feloniously did steal, take, and carry away, against the form of the statute in such case made and provided and against the Government of the United States of America.

Whereupon the said attorney of the United States, who in this behalf prosecutes for the said United States in manner and form aforesaid, prays the consideration of the court here in the premises, and that due proceedings may be had against the said Samuel Turner, Julien Latney, and Edward Beckett in this behalf to make them answer to the said United States touching and concerning the premises aforesaid.

HENRY E. DAVIS,  
*Attorney of the United States for the District of Columbia,*  
By DANIEL W. BAKER,  
*His said Assistant.*

10 Thereupon the Government offered in evidence a book known and called "Docket of Police Court, District of Columbia," wherein is kept entries of cases arising in and the disposition of the same in the said police court, and it was shown by said book or docket that one Julius Latney was arraigned in the said police court for the crime of petit larceny, that he pleaded not guilty, was tried and convicted in said police court of the District of Columbia of petit larceny on the 16th day of July, 1898, and that the sentence imposed by the court upon the defendant was a fine of five dollars, or, in default thereof, that the defendant should be imprisoned in jail for a term of fifteen days, and that, the defendant having defaulted, he was committed to jail.

To which offer in evidence of the said book or docket and the said entry therein contained and above set forth the defendant, by his counsel, then and there objected upon the grounds that the same was immaterial, irrelevant, and incompetent for the reasons that the said police court did not have the power, authority, and jurisdiction in the premises to try the said defendant, and that its judgment entered in said case was an absolute nullity, and that it was shown upon the face of the information previously offered in evidence that the same was insufficient, and that the police court did not acquire jurisdiction to proceed in said case.

And thereupon the court overruled the said objection and permitted the said book or docket to be admitted in evidence; to  
11 which ruling of the court the defendant, by his counsel, then and there duly excepted, and the said exception was noted upon the minutes of the justice presiding.

Thereupon Officer R. L. CARROLL was produced as a witness, and he testified in substance that he had been and was a member of the Metropolitan police force; that he knew the defendant; that he remembered having arrested the defendant several days previous to the 16th day of July, 1898, for the offense of petit larceny, and that this defendant was the same Julius Latney mentioned in the information of the police court hereinbefore set forth.

To the admissibility of said testimony counsel for the defendant objected upon the ground that the information upon which defendant had been arrested was insufficient, and that the proceedings of the police court were invalid thereunder. The court overruled said objection and permitted the evidence to be given; to which said ruling counsel for the defendant then and there excepted, and the said exception was noted upon the minutes of the presiding justice.

Thereupon the Government produced as a witness JOHN H. LUCAS, who testified in substance as follows: That he was a street-sweeper and was so engaged prior and subsequent to October 10th, 1900; that before going to work on the tenth day of October, 1900, he took his coat off and hung it on a tree at or near the southwest corner of Massachusetts avenue and 12th street northwest; that when he returned to get his coat he ascertained that his pocketbook, which he testified was worth \$1.50, was missing; that he did not notify the police department of the loss of his pocketbook, but that shortly thereafter he recovered his pocketbook.

12 Thereupon the Government produced as a witness Officer W. W. WHEELER, who testified in substance that he had been a member of the Metropolitan police force of the District of Columbia for several years last past; that he arrested the defendant on suspicion one morning shortly after the tenth day of October, 1900, and at that time witness did not know that the witness Lucas had lost the said pocketbook; that when searched at the station-house the pocketbook of Lucas was found in the possession of the defendant, who told the witness that he had found the same.

The foregoing testimony being all of the testimony relating to the said case, the defendant, by his counsel, moved the court to peremptorily direct the jury to find a verdict of not guilty on the first count contained in the indictment, and because the Government had failed to prove that the defendant had been legally convicted in the police court of the first offence of petit larceny. The court thereupon refused the said motion, and counsel for the defendant then and — excepted to the said ruling; which said exception was noted upon the minutes of the presiding justice.

And because the matters and things hereinbefore set forth are not matters of record, and because the defendant desires to present his exceptions to the Court of Appeals of the District of Columbia, he moves the court, in his own proper person and by his counsel, to sign and seal this his bill of exceptions, the same to have the same force and effect as if each and every one of said exceptions had been separately signed and sealed; which motion is by the court granted, and the defendant requests the justice presiding at the trial to sign and seal this his bill of exceptions and make the same a part of the record according to the requirements of the statutes

13 in such case made and provided, and it is accordingly done, now for then, this the seventeenth day of January, A. D. 1901.

HARRY M. CLABAUGH, *Justice*. [SEAL.]

14 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :  
District of Columbia,

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 13, inclusive, to be a true and correct transcript of the record, as prescribed by rule 5 of the Court of Appeals of the District of Columbia, in cause No. 22697, criminal, United States *versus* Julius Latney, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe  
Seal Supreme Court my name and affix the seal of said court, at  
of the District of the city of Washington, this 22 day of Jan-  
Columbia. uary, A. D. 1901.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1047. Julius Latney, appellant, *vs.* The United States. Court of Appeals, District of Columbia. Filed Jan. 24, 1901. Robert Willett, clerk.

